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Before the
**FEDERAL COMMUNICATIONS COMMISSION**
Washington, DC 2055

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| In the Matter of | ) | |
| | ) | |
| Implementation of the | ) | CC Docket No. 96-98 |
| Local Competition Provisions of the | ) | |
| Telecommunications Act of 1996 | ) | |
| | ) | |
| Petition of AT&T Corp for | ) | NSD File No. L-00-06 |
| Expedited Declaratory Ruling | ) | |

**Comments of MCI WorldCom, Inc.**

MCI WorldCom, Inc. ("MCI WorldCom") hereby submits these comments supporting AT&T's Petition for Expedited Declaratory Ruling in the above referenced proceeding.[1] MCI WorldCom urges the Commission to grant AT&T's petition and determine that a cost recovery mechanism for intraLATA dialing party is not competitively neutral if costs are not recovered from all providers of telephone exchange service and telephone toll service in the area served by a Local Exchange Carrier ("LEC"), *including that LEC.* The Commission should also reaffirm that 47 CFR §51.215 does not permit a LEC to include its potential lost revenue as a method to account for its costs to implement intraLATA dialing parity (IDP).[2] The Commission should declare that the Ohio Public Utilities Commission ("Ohio") allowed Ameritech-Ohio ("Ameritech") to adopt a tariff that shifts all of its IDP costs to its competitors. The

[1] Pubic Notice DA 00-127, *Common Carrier Bureau Seeks Comments on AT&T Corporation's Petition for Declaratory Ruling that Ameritech Ohio's Dialing Parity Cost Recovery Mechanism Violated 47 C.F.R § 51.215, CC Docket 96-98, NSD-L-00-06*, released January 28, 2000.

[2] Ohio identified the lost toll revenue as: 1) the loss of revenues which ILECs may experience upon loss of their monopoly over direct-dialed intraLATA toll services; and 2) the lost revenue relating to the 90-day waiver of the Ohio $5.00 customer-specific charge for PIC changes for the first 90-days of presubscription period. (AT&T petition at 12.)

purported rationale for this unlawful means of cost recovery is that Ameritech's loss of toll revenues is an adequate contribution to cost recovery.

In its petition, AT&T correctly states that Ameritech Ohio's attempt to "force competing carriers to bear all of its incremental costs to implement" intraLATA dialing parity ("IDP") in Ohio is unlawful.[3] In 1996, the Commission appropriately determined that any cost recovery mechanism for dialing parity must be structured similar to cost recovery for local number portability (LNP) -- in a pro-competitive manner.[4] As such, costs associated with implementing dialing parity should be recovered on a competitively neutral basis. The Commission also determine that competitively neutral excludes cost recovery mechanisms that:[5]

- Give one service provider an appreciable cost advantage over another service provider, when competing for a specific subscribers (i.e., the recovery mechanism may not have a disparate effect on the incremental costs of competing service providers seeking to serve the same customer); or,
- Have a disparate effect on the ability of competing service providers to earn a normal return on their investment.

According to the Commission, the incremental costs of dialing parity are: dialing parity-specific software, any necessary hardware and signaling system upgrades, consumer education costs that are strictly necessary to implement dialing parity.[6] The

[3] AT&T petition at 2.
[4] See, *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, Area Code Relief for Dallas and Houston, Ordered by the Public Utility Commission of Texas, Administration of the North American Numbering Plan, Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois*, CC Docket No. 96-98, CC Docket No. 95-185, NSD File No. 96-8, CC Docket No. 92-237, IAD File No. 94-102, Second Report and Order and Memorandum Opinion and Order, FCC 96-333 (August 1996) ("*Second Interconnection Order*")
[5] 47 CFR § 51.215
[6] *Second Interconnection Order* at ¶ 95

Commission's rules do not allow an incumbent to use projected lost toll revenue to meet its obligation to contribute, on a competitively neutral basis, to the costs of IDP.

In this case, Ohio has permitted Ameritech to recover its IDP implementation costs in a per minute access charge on intraLATA calls. Instead of applying this charge on a competitively neutral basis to all intraLATA calls, Ohio has allowed Ameritech to impose this charge only on its competitors, and not on its own intraLATA toll service. This tariff violates this Commission's requirement of competitively neutrality by giving Ameritech an incremental cost advantage when competing with other carriers for any customer in the intraLATA toll market. Under this tariff, Ameritech's competitors will necessarily incur this tariff charge as a cost of doing business, yet Ameritech will avoid the charge if it seeks to offer service to the same customers.

AT&T is correct when it declares that Ohio's application of its own rules on IDP cost recovery as it applies to Ameritech's IDP tariff violate 47 CFR § 51.215.[7] MCI WorldCom agrees with AT&T's conclusion that neither Ohio's application of its rule nor Ameritech's tariff maintain the competitively neutral cost recovery requirement of the Commission because both exempt the incumbent from paying its share of the incremental costs of dialing parity implementation and place Ameritech's competitors at a significant cost and competitive disadvantage in relation to the incumbent monopolist.[8] To determine the rate to be charged to all carriers other than Ameritech, Ameritech was required to monitor traffic until February 2000. At which time Ameritech would take the total minutes terminated to the other carriers to determine a percent allocator and divide Ameritech's own cost among those carriers. This method is fundamentally flawed and

[7] AT&T Petition at 3.

Ohio should never have permitted Ameritech to exclude itself when determining the percent allocator. The Commission's rule clearly states that any LEC, (this includes the incumbent) must include itself when recovering its costs for IDP implementation.

The only rationale offered for this facially unlawful cost recovery scheme, is that Ameritech's lost toll revenue from the introduction of IDP, somehow justify excusing it from contributing on a competitively neutral basis to the costs of implementing IDP. This line of reasoning effectively converts Ameritech lost revenues to a recoverable cost of IDP implementation. But this Commission's rules plainly allow recovery only for costs associated with dialing parity specific software, any necessary hardware and signaling system upgrades, consumer education costs that are strictly necessary to implement dialing parity.[9] Potential lost toll revenue are simply not a recoverable cost of IDP implementation.

We support AT&T's request to declare that Ameritech's Dialing Parity Tariff, as interpreted and approved by Ohio, is contrary to the Commission's rules and orders governing dialing parity cost recovery.

Respectfully submitted,

MCI WORLDCOM, INC.

By: _____

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Dated: February 14, 2000

[8] AT&T Petition at 3-4.
[9] *Second Interconnection Order* at ¶ 95

STATEMENT OF VERIFICATION

I have read the foregoing, and to the best of my knowledge, the information, and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on February 14, 2000.

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## CERTIFICATE OF SERVICE

I, Barbara Nowlin, do hereby certify that copies of the foregoing MCIWorldCom Petition for Expedited Declaratory Ruling were sent on this 14th day of February, 2000, via first-class mail, postage pre-paid, to the following:

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